



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

**JUN 9 1976**

**OPINION COMMITTEE  
ATTORNEY GENERAL'S OFFICE**

**The Honorable Tom Hanna  
Criminal District Attorney  
P. O. Box 2553  
Beaumont, Texas 77704**

**Opinion No. H-834**

**Re: Citation fees in  
small claims court.**

**Dear Mr. Hanna:**

You suggest there is a conflict between article 2460a, V.T.C.S., and article 3933a, V.T.C.S., and you ask what citation fee should be charged by the small claims court.

Section 5a of article 2460a was last amended in 1963, and provides:

Sec. 5a. A fee of Two Dollars (\$2) shall be charged for the service of citation provided for in Section 5 and shall be accountable as a fee of office by the officer serving citation.

Article 3933a was last amended in 1975, and provides in part:

Sheriffs and Constables shall receive the following fees:

For each person, corporation or legal entity, on whom service of citation, subpoena, summons, or process not otherwise provided for, is performed and return made, including mileage, if any, a fee of

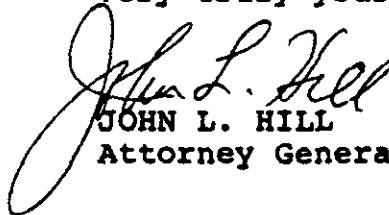
(a) Small Claims Courts	\$4.00
(b) All other Courts	\$8.00

These two statutes are in irreconcilable conflict, since one provides for a two dollar fee and the other provides for a four dollar fee. When two acts irreconcilably conflict the latter enactment is held to repeal the inconsistent portions of the former. Creps v. Board of Firemen's Relief and Retirement Fund Trustees of Amarillo, 456 S.W.2d 434 (Tex. Civ. App. -- Amarillo 1970, writ ref'd n.r.e.); Halsell v. Texas Water Commission, 380 S.W.2d 1 (Tex. Civ. App. -- Austin 1964, writ ref'd n.r.e.). Accordingly, the provisions of article 3933a prevail, and a citation fee of four dollars may be charged in small claims courts.

S U M M A R Y

The fee for citation in small claims court is four dollars.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

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